



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
8800 Glacier Highway
Suite 106
Juneau, Alaska 99801-8079

PUBLIC NOTICE DATE: February 21, 2006

EXPIRATION DATE: March 22, 2006

REFERENCE NUMBER: POA-2005-525-2

WATERWAY NUMBER: Naha Bay

Interested parties are hereby notified that an application has been received for an After-the-Fact Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: Mr. Scott Kemp, 6035 NW Burgundy Drive, Corvallis, Oregon 97330-9219.

LOCATION: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, T. 72. S., R. 90 E., Copper River Meridian; Latitude 55.602° North, Longitude 131.630° West, Ketchikan C-5 Quadrangle; Old Loring Cannery Site, Loring, Alaska.

WORK: The applicant is requesting After-the-Fact Department of the Army Authorization for the following:

a. Permanently retain approximately 25 cubic yards of unauthorized fill materials that were placed below the High Tide Line (HTL) (+19.4 feet above the 0.0 foot contour) during the placement of upland fill to construct a residence building pad. The area of impact is 12 feet by 95 feet, covering approximately 1,144 square feet (0.026 acres).

b. Temporarily retain approximately 61 cubic yards of unauthorized fill materials that were placed below the HTL for temporary construction of a loading ramp. The area impacted is 20 feet by 52 feet, covering approximately 1,086 square feet (0.024 acres). The applicant proposes to retain this fill until August 1, 2006, after which time, it would be excavated down to the original ground contour and used as fill materials at the adjacent upland fill site.

c. Install approximately 20 cubic yards of large 3-man stones below the HTL for use as rip-rapping and to prevent erosion of the existing fill pad. The area that would be impacted is 88 feet by 3 feet, covering approximately 264 square feet (0.006 acres).

d. Remove approximately 3.5 cubic yards of contaminated soils below Mean High Water line (MHW) (+14.9 feet above the 0.0 foot contour), as per a previously approved Alaska Department of Environmental Conservation (ADEC) Removal and Disposal Plan. The area that would be impacted is 12 feet by 15 feet, covering approximately 180 square feet (0.004 acres) and is approximately 3 to 5 inches

deep. The contaminated soils would be removed, placed into sealed containers, and then transported and disposed of at an approved waste disposal site.

e. Install, retain, and/or remove the above mentioned fill materials as indicated on attached plans and drawings, sheets 1-4, dated 12/15/05.

PURPOSE: The purpose of this application request is as follows:

a. To resolve two current fill violations that have occurred on-site (the placement of un-authorized house fill pad materials below HTL and the placement of un-authorized ramp fill pad materials below HTL).

b. Clean-up an existing hazardous waste site that is partially on the property and is partially below the MHW line, by removing and properly disposing of the hazardous materials.

c. Prevent erosion of the upland fill site and any After-the-Fact fill site, if permitted.

ADDITIONAL INFORMATION: For additional information on proposed project, please contact Mr. Trevor Sande, R&M Engineering-Ketchikan, Incorporated, 355 Carlana Lake Road, Suite 200, Ketchikan, Alaska 99901-5614.

MITIGATION: As a result of project coordination, the applicant has incorporated into the proposed project the following mitigation efforts to reduce impacts to the aquatic environment:

a. Completion of an archaeological survey of the violation and proposed work sites by a qualified archaeologist to address possible impacts on the archaeological sites located in and/or near the project work site.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are unevaluated properties in the vicinity of the proposed permit site. They have been designated KET-009 Old Loring Saltery and Cannery, KET-953 Prehistoric Midden, KET-954 Petroglyph, and a cemetery that has not yet been assigned an AHRS number. Because some of these properties may lie within the project area, a determination of eligibility and, if needed, a determination of effect will be made in consultation with the State Historic Preservation Officer (SHPO). Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time. This application is being coordinated with SHPO. Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Engineer during the public comment period.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS). The proposed action is near Anadromous Steam Catalog number 10480, which is habitat for both Pink and Chum Salmon.

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria

(see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Mr. Garth Zimbelman, Regulatory Specialist, (907) 790-4490, or by email at Garth.A.Zimbelman@poa02.usace.army.mil or by contacting regpagemaster@poa02.usace.army.mil if further information is desired concerning this notice.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States - Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

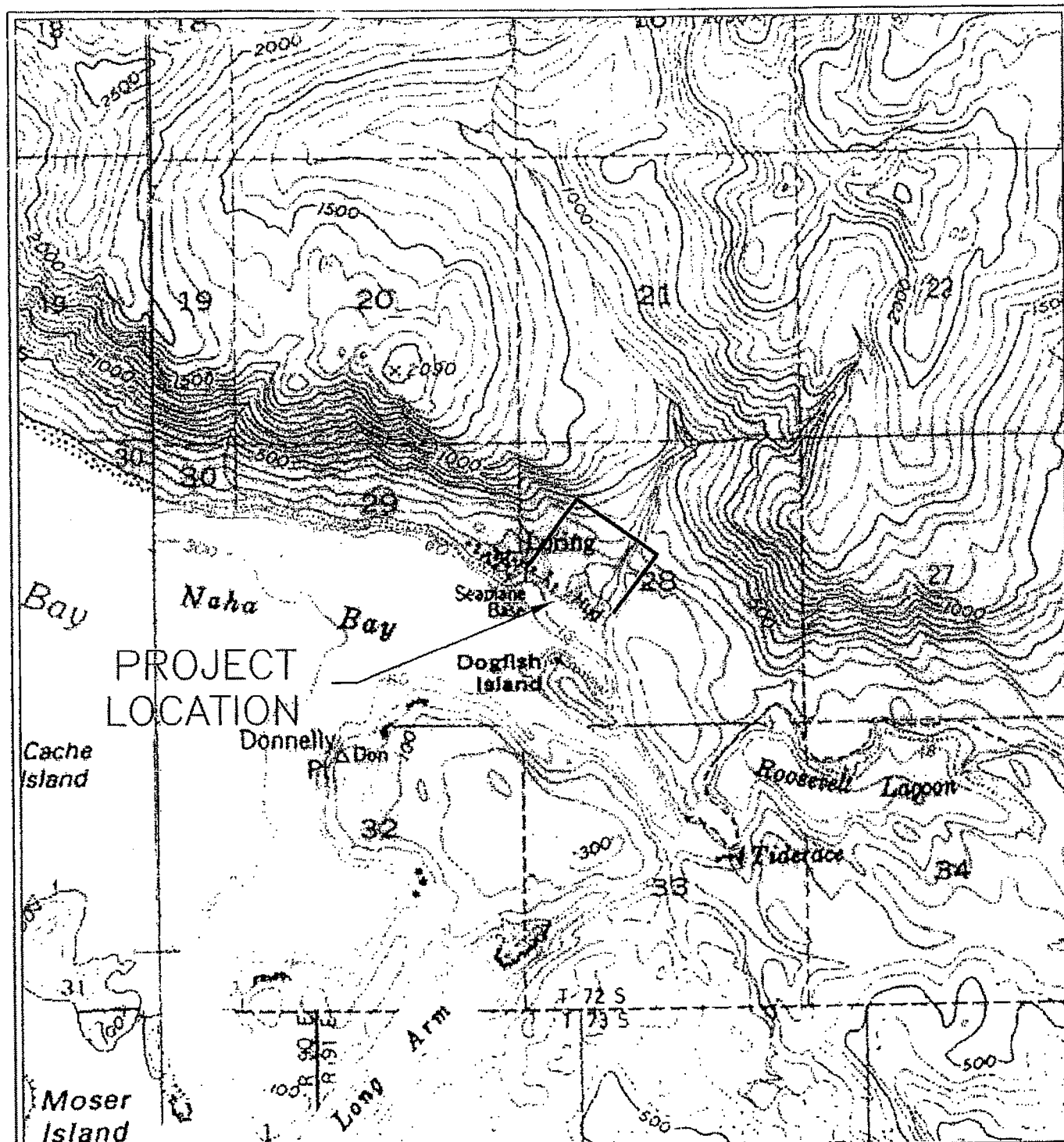
(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

() Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). Therefore, our public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



PROJECT
LOCATION

KEMP LORING DEVELOPMENT

VICINITY MAP
SCALE: 1"=1 MILE

APPLICANT:
SCOTT KEMP
6035 NW BURGUNDY DR
CORVALLIS, OR 97330

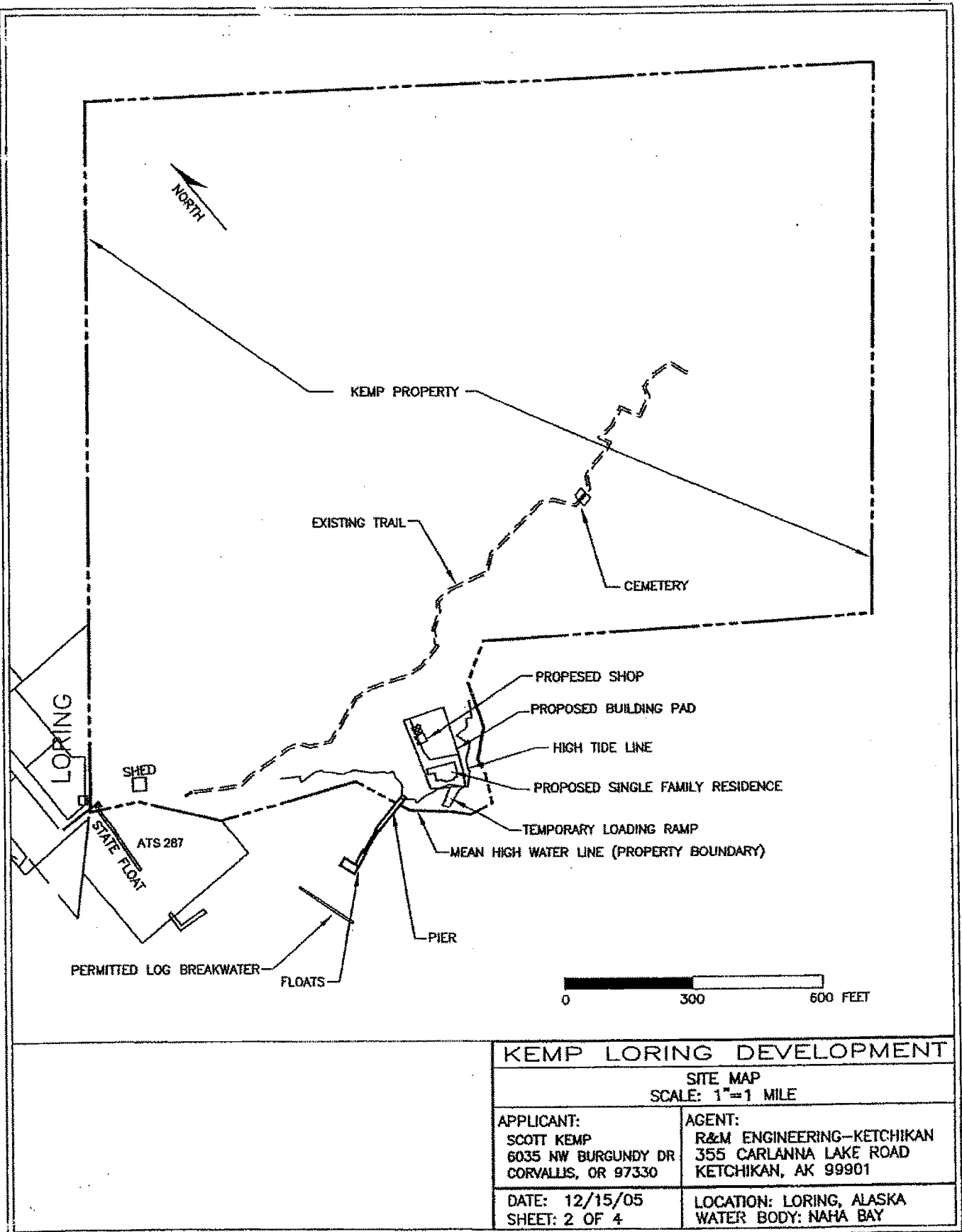
AGENT:
R&M ENGINEERING-KETCHIKAN
355 CARLANNA LAKE ROAD
KETCHIKAN, AK 99901

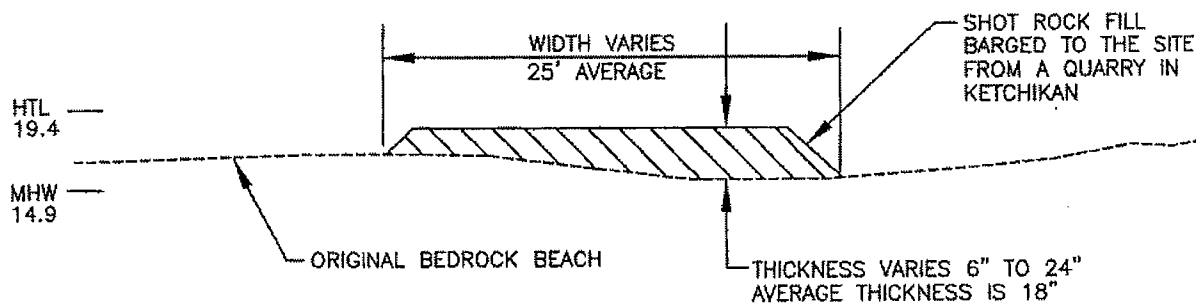
DATE: 12/15/05
SHEET: 1 OF 4

LOCATION: LORING, ALASKA
WATER BODY: NAHA BAY

PROJECT LOCATION

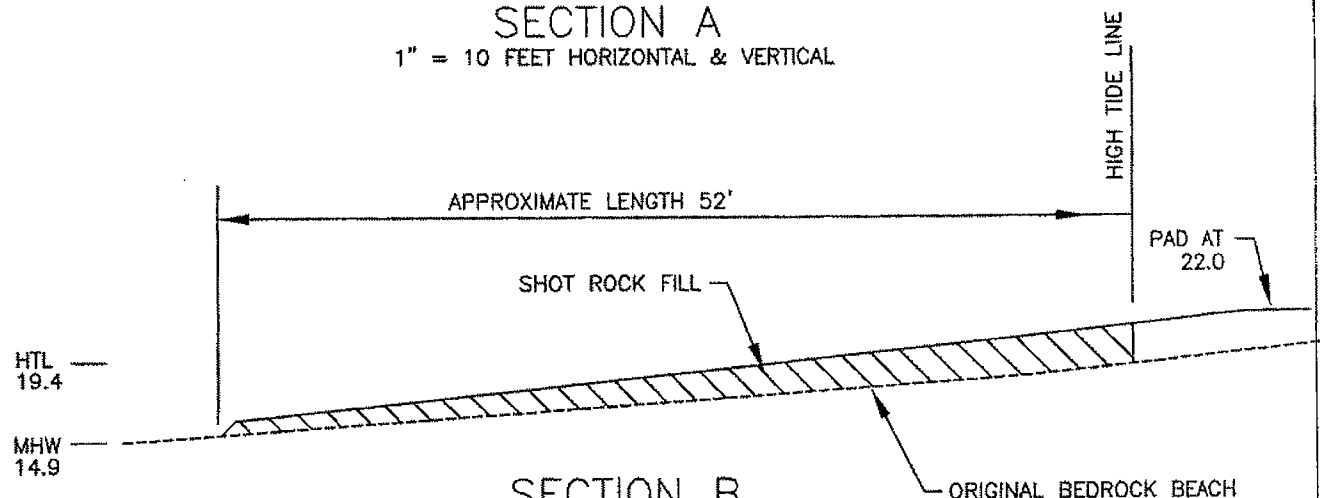
LAT 55°36'6" N, LONG. 131°37'49"W
T.72S., R91E., SEC. 28, CRM





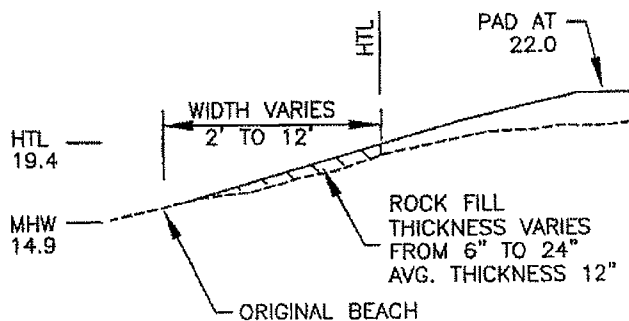
SECTION A

1" = 10 FEET HORIZONTAL & VERTICAL



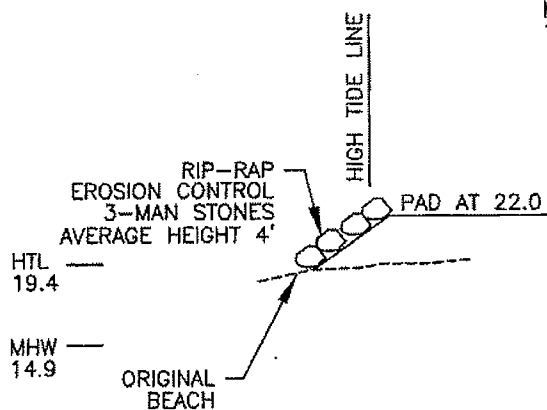
SECTION B

1" = 10 FEET HORIZONTAL & VERTICAL



SECTION C

1" = 10 FEET HORIZONTAL & VERTICAL



SECTION D

1" = 10 FEET HORIZONTAL & VERTICAL

KEMP LORING DEVELOPMENT

FLOAT DETAILS
SCALE: 1"=1 MILE

APPLICANT:
SCOTT KEMP
6035 NW BURGUNDY DR
CORVALLIS, OR 97330

AGENT:
R&M ENGINEERING-KETCHIKAN
355 CARLANNA LAKE ROAD
KETCHIKAN, AK 99901

DATE: 2/1/06
SHEET: 4 OF 4

LOCATION: LORING, ALASKA
WATER BODY: NAHA BAY

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPARTMENT OF NATURAL RESOURCES OFFICE OF PROJECT MANAGEMENT AND PERMITTING

OFFICE OF PROJECT MANAGEMENT AND PERMITTING
302 GOLD STREET, SUITE 202
JUNEAU, ALASKA 99801-1127
PHONE: (907) 465-3562/FAX: (907) 465-3075

NOTICE OF APPLICATION FOR CERTIFICATION OF CONSISTENCY WITH THE ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. POA-2005-525-2, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Office of Project Management and Permitting. For information about this consistency review, contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

401 Certification Program

Non-Point Source Water Pollution Control Program

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. POA-2005-525-2, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
410 Willoughby Avenue
Juneau, Alaska 99801-1795
Telephone: (907) 465-5321
FAX: (907) 465-5274